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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICOMIGDALIA AMALBERT GARCIA  
et al.,

Plaintiffs,

v.

K-MART CORPORATION

Defendant.

CIVIL NO. 98-1478 (RLA)

ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION  
AND IMPOSING SANCTIONS UPON K-MART AND ITS COUNSEL

Before the Court is defendant K-MART CORPORATION's Motion for Reconsideration of the Court's denial of various motions it filed on June 29, 2000.

Accordingly, the Court has carefully re-reviewed and reconsidered the arguments in defendant's motions requesting: (1) postponement of trial; (2) leave to announce a new forensic expert; (3) leave to conduct additional discovery; (4) leave to file dispositive motion for partial summary judgement; (5) leave to file third-party complaint; and (6) imposition of sanctions, dismissal, or compelling of discovery.

Having reconsidered all of defendant's arguments, the Court FINDS that the position that K-MART alleges it now finds itself in, to wit: that of being "shortchanged of the opportunity to defend adequately the cause of death allegation" was brought about exclusively through its own lack of diligence, its failure to adhere

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1 to the timetables established by this Court and the overall and  
2 consistent obstinacy it has exhibited since it was summoned to defend  
3 this action.<sup>1</sup>

4  
5 Accordingly, K-MART's Motion for Reconsideration (docket No. 76,  
6 filed on July 28, 2000) is hereby DENIED.

7 IT IS FURTHER ORDERED that K-MART and its counsel shall be and  
8 are hereby SANCTIONED in the amount of \$1,000.00 for its contumacious  
9 conduct, which sanctions shall be paid to opposing counsel no later  
10 than August 11, 2000,<sup>2</sup> in compensation for the costs and fees  
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15 <sup>1</sup> Indeed, the Court notes that defendant filed several motions  
16 which clearly manifest its intention to delay trial, derail the  
17 Court's case management responsibilities, and confuse and complicate  
18 the issues to be tried. See, i.e., Motion in Limine filed on  
19 September 23, 1999 (docket No. 35) requesting reconsideration of an  
20 issue that the Court had already ruled on weeks before ; Motion  
21 Requesting Extension of Discovery Period and Rescheduling of...  
22 Pretrial Hearing and Trial... (docket No. 58) filed on February 22,  
23 2000, less than a month before the date set for trial at that time;  
24 Motion Requesting Disqualification of Current Medical Expert  
Witnesses...filed on March 1, 2000 (docket No. 61) requesting also  
that "an adequate timeframe be set for defendant to engage another  
expert...". It should be noted also that the Court was obliged to  
issue an Order compelling K-MART to make required discovery  
disclosures due to its failure to produce documents requested by  
plaintiffs. See Omnibus Order filed on January 10, 2000 (docket No.  
54).

25 <sup>2</sup> A motion certifying compliance therewith shall be filed with  
26 the Court on the same date.

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generated by plaintiffs' counsel having to respond to such untimely and unsubstantiated filings.<sup>3</sup>

PRETRIAL AND TRIAL SETTINGS


The parties are reminded that a JURY TRIAL remains scheduled for August 15, 2000, at 9:30 a.m., while the PRETRIAL/SETTLEMENT CONFERENCE is scheduled for August 8, 2000, at 10:30 a.m.

Similarly, the JOINT PROPOSED PRETRIAL ORDER is due on August 2, 2000, and the TRIAL BRIEFS, JURY INSTRUCTIONS VOIR DIRE and VERDICT FORMS, in accordance with the Court's Standing Order, are due on August 11, 2000.<sup>4</sup>

This Order shall be FAXED to counsel of record. *ok*

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 31<sup>TH</sup> day of July, 2000.



RAYMOND L. ACOSTA  
United States District Judge

<sup>3</sup> In this regard, plaintiffs' requests for sanctions, included in docket Nos. 73 and 74, are GRANTED as set forth herein.

<sup>4</sup> Courtesy copy of all of the abovementioned filings must be provided to the Chambers of the undersigned at Suite 348, U.S. Courthouse and Post Office Building, 300 Recinto Sur St., San Juan, P.R. 00901.